

Appl. No. 10/009,294
Amdt. dated November 25, 2005
Reply to Office action of August 25, 2005

REMARKS/ARGUMENTS:

Applicant has carefully reviewed and considered the Office Action mailed on August 25, 2005, and the references cited therewith.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 2-7 are now pending in this application.

§103 Rejection of the Claims

Claims 2-4 and 6 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,865,772 (George) and over U.S. Patent No. 6,051,747 (Lindqvist et al.).

The Applicant respectfully traverses the rejection. In the office action dated August 25, 2005, the Examiner cited Col. 3, lines 1-5 and Col. 7, lines 5-7 of the George reference as teaching a substantially air tight cover. The George reference appears to teach a flexible envelope formed of a water- and air-impervious flexible membrane. (See Col. 3, lines 1-3 of the George reference). As taught by the George reference, it is the air-impervious nature of the flexible membrane (i.e., envelope) that "is important because any leakage, of either air or water entering through the outlet valve, would cause vacuum to be lost inside the sanative protector which in turn would cause the seal around the user's skin to be lost. The protector's envelope would then become baggy and thereby not serve its intended purpose." (See Col. 6, lines 25-31 of the George reference). The George reference does not teach "a substantially air tight cover" as recited by Applicant's independent claim 2.

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In contrast, Applicant's independent claim 2 recites:

Apparatus for stimulating healing of wounds which comprises an envelope for receiving an affected part of the body, said envelope including a substantially air-tight cover and porous pad within the cover, said pad being adapted to contact the wound surface, and connection means for connecting the interior of the envelope to a source of negative pressure, wherein said envelope is a glove, sock or sleeve.

As described in the Applicant's specification at page 3, paragraph 7, a substantially air-tight cover is one which is sufficiently air-tight that by applying suction to the porous pad, a pressure below ambient can be maintained within the envelope. It is not necessary for the material of the envelope to be totally air occlusive. As further described by Applicant's specification at page 7, paragraph 17, such a substantially air-tight cover allows for a pulsed, intermittent or continuous negative pressure to be applied.

The air-impervious flexible membrane of the George reference would not function in the same manner as the "substantially air-tight cover" recited in Applicant's independent claim 2 and described by Applicant's specification because an air-impervious flexible membrane would not allow for a pulsed, intermittent or continuous negative pressure to be applied. In other words, such a pulsed, intermittent or continuous negative pressure environment would not be possible in the George reference because the pressure under the air-impervious flexible membrane of George would eventually *equal* the pressure at the negative pressure source, thereby *preventing* fluid removal at the wound site at some point. The George reference

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therefore *teaches away from the present* invention at the least, or *fails to function* at the most.

The Lindqvist et al. reference fails to cure the deficiencies of the George reference because the Lindqvist et al. does not teach or suggest a substantially air-tight cover as recited by Applicant's independent claim 2. Rather, the Lindqvist reference teaches a wound dressing having a layer of foam material, which includes a pattern of holes.

As such, the George and the Lindqvist references, either alone, or in combination do not describe, teach, or suggest the elements of the Applicant's independent claim 2, and thus, the references cannot support a §103 rejection for the same.

In addition, in the office action, the Examiner failed to provide a suggestion or motivation for combining the references. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. (See MPEP §2143.01 (I)). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. (See MPEP §2143.01 (III)).

In the Office Action, the Examiner failed to show such a suggestion or motivation stating only that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the dressing of George for the dressing of Lindqvist et al. since it appears that the invention of the George would perform equally well with any type of dressing." Since the Office Action did not provide a suggestion or motivation to combine the references, but rather only stated that it would have been

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obvious to combine references, the Office Action has not made a *prima facie* case for obviousness.

Accordingly, in view of these remarks, reconsideration and withdrawal of the §103 rejection for independent claim 2, as well as the claims, which depend therefrom, is respectfully requested.


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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 210.255.6788 to facilitate prosecution of this matter.

At any time during the pendency of this application, please charge any additional fees or credit overpayment to the Deposit Account No. 500326

Respectfully submitted,


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